

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELWIN POLLARD,

Plaintiff,

- against -

E.S.U. UNITE JOHN DOES, #1-5,

Defendants.

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08 Civ. 8015 (DAB)
DISMISSAL ORDER

This action was filed on September 17, 2008. Since its filing, Plaintiff has taken no action to prosecute this case. Plaintiff was issued an order to show cause as to why this Court should not dismiss this action on July 17, 2009. See Lyell Theatre Corp. v. Loews Corp., 682 F.2d 37, 42 (2d Cir. 1982) (holding that a district court's authority to dismiss an action for plaintiff's failure to prosecute "cannot seriously be doubted").

Because Plaintiff is pro se, the Court's order to show cause was delivered to Plaintiff's last known address by certified mail. On July 29, 2009, the Court received that mailing, returned to sender, apparently due to Plaintiff's change of address. The Court has not, however, received an updated mailing address from Plaintiff.

Accordingly, Plaintiff's time to show good cause by affidavit expired on August 17, 2009. As of this date, no such affidavit has been filed with the Clerk of the Court.

Accordingly, the action is hereby dismissed for failure to prosecute.

SO ORDERED

DATED: New York, New York
August 26, 2009


DEBORAH A. BATTS
United States District Judge